

1 Robert Scotlund Vaile
2 PO Box 727
3 Kenwood, CA 95452
4 (707) 833-2350
5 *Petitioner in Proper Person*

**PROPER PERSON
RECEIVED/ENTERED**
FEB 17 2010
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

6 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

8 ROBERT SCOTLUND VAILE,
9
10 *Petitioner,*

Supreme Court Case No: 55446
District Court Case No: 98D230385

11 vs.

12
13 THE EIGHTH JUDICIAL DISTRICT
14 COURT OF THE STATE OF
15 NEVADA, IN AND FOR THE
16 COUNTY OF CLARK, AND THE
17 HONORABLE CHERYL B. MOSS,
18 DISTRICT JUDGE, FAMILY COURT
19 DIVISION,

FILED

FEB 19 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

18 Respondents.

21 **EMERGENCY MOTION**
22 **TO EXPEDITE SUPREME COURT REVIEW OF**
23 **PETITION FOR WRIT OF MANDAMUS OR PROHIBITION**

24 Petitioner, Robert Scotlund Vaile has filed a Petition for Writ of Mandamus
25 or Prohibition seeking an Order from this Honorable Court prohibiting the
26 Honorable Cheryl B. Moss, District Court Judge, Dept. I, Eighth Judicial District
27 Court Judge, Family Division from enforcing an expired judgment or from
28 enforcing judgments for attorneys fees by requiring payments in interpleader as a

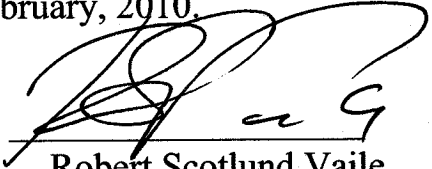
RECEIVED
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TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

1 substitution for legal garnishment of his property. This order was issued on direct
2 threat of criminal contempt against Mr. Vaile as of March 8, 2010. Petitioner
3 respectfully requests that this Honorable Court or a single Justice of this
4 Honorable Court review and rule on this motion immediately in accordance with
5 NRAP 27(c).

6 Petitioner Vaile requests that this Court review the Petition on an
7 Emergency Basis because the family court in question has issued a verbal order to
8 Mr. Vaile that he must pay monies not in his possession into the family court by
9 March 8, 2010. The payments are not for child support but for an order for
10 attorneys fees that expired in June 2009 – unrelated to child support. The lower
11 court threatened that if Mr. Vaile did not pay nearly \$5,000 by March 8, 2010, he
12 would be held in contempt of court. Since Mr. Vaile does not have the funds to
13 make this payment, he will be forced to file bankruptcy prior to March 8, 2010 or
14 risk being imprisoned unless this Court intercedes immediately.

15 Accordingly, Petitioner requests this Court to issue appropriate stay orders
16 and to otherwise act on the Petition urgently.

17
18 Respectfully submitted this 16th day of February, 2010.

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6 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

7 ROBERT SCOTLUND VAILE,
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9 Petitioner,

Supreme Court Case No: _____
District Court Case No: 98D230385

10 vs.
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12 THE EIGHTH JUDICIAL DISTRICT
13 COURT OF THE STATE OF
14 NEVADA, IN AND FOR THE
15 COUNTY OF CLARK, AND THE
16 HONORABLE CHERYL B. MOSS,
17 DISTRICT JUDGE, FAMILY COURT
18 DIVISION,

19 Respondents.

20 **AFFIDAVIT OF ROBERT SCOTLUND VAILE IN SUPPORT OF**
21 **EMERGENCY MOTION TO EXPEDITE REVIEW OF**
22 **PETITION FOR A WRIT OF MANDAMUS**

23 R. Scotlund Vaile, under penalty of perjury under the laws of the State of
24 Nevada, declares as follows:

- 25 1. I am the Plaintiff in this case.
26 2. I am making this Declaration in support of the Emergency Motion to
27 Expedite Review of Petition for a Writ of Mandamus or Prohibition.
28

- 1 3. I have written with my own hand and am familiar with the contents of the
2 petition and the emergency motion, and those matters that I do not have
3 personal knowledge of, I state on information and belief.
- 4 4. I reside in Kenwood, California.
- 5 5. In April of 2002, this Court relinquished both personal and subject-matter
6 jurisdiction of both Plaintiff and Defendant in this case based on the finding
7 that neither party had ever resided in Nevada.
- 8 6. In July, 2003 the lower court entered an order for attorney's fees in the
9 previous litigation surrounding the jurisdiction of the Nevada courts.
- 10 7. I have never received notice that this order was registered in any state where
11 I have lived.
- 12 8. On June 16, 2009, Porsboll's counsel issued a Nevada writ of execution and
13 garnishment to a Nevada branch of my California employer, Deloitte &
14 Touche LLP ("Deloitte"), in an attempt to seize my California earnings.
- 15 9. I requested and obtained a California TRO prohibiting Deloitte from
16 garnishing my earnings based on the writ of garnishment because that
17 Nevada judgment had not been domesticated in California.
- 18 10. I understood the Nevada judgment to have expired in June 2009.
- 19 11. I received no notice regarding the judgment's renewal.
- 20 12. Since my employer, Deloitte, was restrained from garnishing my salary, the
21 Nevada family court ordered me to "self-garnish," and to interplead 25% of
22 my salary to the clerk of the court in payment of the 2003 attorney fee award
23 or face criminal contempt on October 26, 2010.
- 24 13. Shortly thereafter, Porsboll's California counsel admitted in filings to the
25 California court that the 2003 Nevada judgment had not, in fact, been
26 renewed.
- 27 14. California counsel made assurances to me directly, both verbally and in
28 email, that the Nevada garnishment would not be pursued.

1 15. Because of these assurances, I did not interplead funds to the family court in
2 satisfaction of the 2003 judgment.

3 16. On February 3, 2010, the lower court entered a stipulation and order
4 quashing the Nevada Writ of Garnishment based on the fact that the 2003
5 judgment had not been renewed.

6 17. The family court scheduled a show cause hearing for March 8, 2010 and
7 required that I show cause for why I should not be held in contempt of court
8 for not interpleading funds to the clerk of court in satisfaction of the expired
9 order.

10 18. The family court ordered me to pay \$4,696.64 by March 8, 2010 or face
11 criminal contempt sanctions.


12 19. I have remained current on child support payments since this court entered
13 support orders in March 2008.

14 20. But I do have funds available to me to pay these additional amounts ordered
15 by the family court, and will be forced to file bankruptcy or be subject to
16 imprisonment on March 8, 2010 if this Court does not act.

17 21. I am respectfully requesting that Judge Moss be immediately prohibited by
18 this Honorable Court from enforcing an expired order or requiring payment
19 of funds on threat of contempt.

20 22. Further I say not.

21 Under penalty of perjury, State of Nevada.

22
23 
24 _____

25 Robert Scotlund Vaile
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